

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

TIM P. BRUNDLE, on behalf of the Constellis
Employee Stock Ownership Plan,

Plaintiff,

v.

WILMINGTON TRUST N.A., as successor to
Wilmington Trust Retirement and
Institutional Services Company,

Defendant.

Case No. 1:15-cv-1494 (LMB/IDD)

DEFENDANT WILMINGTON TRUST N.A.'S NOTICE OF APPEAL

Notice is hereby given that Defendant Wilmington Trust, N.A. ("Wilmington Trust"), by and through counsel, appeals to the United States Court of Appeals for the Fourth Circuit from:

1. the District Court's April 15, 2016 Order (ECF No. 89) denying Wilmington Trust's Motion to Dismiss First Amended Class Action Complaint;
2. the District Court's October 20, 2016 Order (ECF No. 258) and November 3, 2016 Memorandum Opinion (ECF Nos. 260, 261) granting in part Plaintiff's Motion for Partial Summary Judgment and denying Wilmington Trust's Motion for Summary Judgment and Motion to Exclude Expert Testimony of Dana Messina;
3. the Judgment entered in this action by the District Court on March 13, 2017 (ECF No. 297) giving effect to the District Court's March 13, 2017 Memorandum Opinion (ECF No. 294) and Order (ECF No. 295);
4. the District Court's May 16, 2017 Order (ECF No. 326) granting Plaintiff's Motion to Strike and ordering that the Tarbell declaration be stricken;

5. the District Court's June 23, 2017 Memorandum Opinion (ECF No. 337) and Order (ECF No. 338), which denied Wilmington Trust's Motion to Amend the Judgment Pursuant to Rule 59(e), or, in the Alternative, For a New Trial Pursuant to Rule 59(a), awarded Plaintiff attorneys' fees in the amount of \$1,819,631.11, and found a common fund or contingent fee award appropriate under the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 *et seq.*; and
6. all other rulings and orders adverse to Wilmington Trust that are reviewable in the appeal.

Additionally, Wilmington Trust certifies that on this day, July 21, 2017, it, through its counsel, tendered payment of \$505.00 to the United States District Court for the Eastern District of Virginia for the filing fee associated with this appeal.

WILMINGTON TRUST, N.A.
By Counsel

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CERTIFICATE OF SERVICE

I hereby certify that on July 21, 2017, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing to all registered counsel of record in this action listed below:

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